

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

LULAC Texas, et al	§	
Plaintiffs,	§	
	§	
v.	§	Civil Action No. 1:21-cv-786-XR
	§	
ESPARZA, et al	§	
Defendants.	§	
	§	

DEFENDANT MICHAEL SCARPELLO'S UNOPPOSED MOTION TO EXTEND
DEADLINE TO FILE AN ANSWER OR OTHER RESPONSIVE PLEADING
TO PLAINTIFFS' ORIGINAL COMPLAINT

TO THE HONORABLE COURT:

Defendant Michael Scarpello ("Mr. Scarpello") files this Unopposed Motion to Extend Deadline to File an Answer or other Responsive Pleading to Plaintiffs' Original Complaint (the "Motion"). Defendant has conferred with Plaintiffs' counsel about this motion and Plaintiffs' counsel has agreed to an extension of the referenced deadline to October 25, 2021.

1. Plaintiffs LULAC Texas, Voto Latino, Texas Alliance for Retired Americans, and Texas AFT ("Plaintiffs") filed suit against Mr. Scarpello and the other defendants on September 7, 2021. Mr. Scarpello was served with a summons on September 9, 2021. Mr. Scarpello was sued in his official capacity as the appointed Elections Administrator of Dallas County, Texas. Except for the Texas Attorney General, the other defendants are elected or appointed officials responsible for conducting elections in the State of Texas (Jose Esparza, appointed acting Texas

Secretary of State); Bexar County, Texas (Jacquelyn Callanen, appointed Elections Administrator); Travis County, Texas (Dana DeBeauvoir, elected Travis County Clerk); Harris County, Texas (Isabel Longoria, appointed Elections Administrator); Hidalgo County, Texas (Yvonne Ramón, appointed Elections Administrator); and El Paso County, Texas (Lisa Wise, appointed Elections Administrator). Defendant Ken Paxton, elected Texas Attorney General, does not conduct elections, but does investigate and prosecute criminal offenses contained in the Texas Election Code as well as represent the State of Texas in constitutional challenges to Texas law. All defendants were sued in their official capacities.

2. This lawsuit involves Federal constitutional challenges to portions of Senate Bill 1 (“SB 1”) from the Second Called Session of the 87th Texas Legislature, which amended and added a number of statutes in and to the Texas Election Code. SB 1 is scheduled to take effect on December 2, 2021. Plaintiffs provided notice of the filing of this lawsuit, and their constitutional challenges to SB 1, to the Texas Attorney General’s Office.

3. Plaintiffs assert claims against Mr. Scarpello and Defendants Callanen, DeBeauvoir, Longoria, Ramón, and Wise based on 42 U.S.C. § 1983 and 52 U.S.C. § 10508 and challenge SB 1 on the grounds that it violates the First and Fourteenth Amendments to the United States Constitution and Section 208 of the Voting Rights Act. Plaintiffs seek a judicial declaration that SB 1 violates the above-referenced amendments and seek an injunction against Mr. Scarpello and the other named defendants, from implementing, enforcing, or giving effect to SB 1. Plaintiffs also

seek to recover costs, disbursements, and reasonable attorney's fees in bringing this case, in accordance with 42 U.S.C. 1988.

4. Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure controls extensions of time to file papers before the time has expired:

(b) Extending Time.

(1) In General. When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires.

5. Good cause exists to grant Mr. Scarpello an extension of time to respond to the lawsuit because (1) the undersigned assistant district attorney, Ben L. Stool, as well as assistant district attorneys Earl S. Nesbitt and Barbara S. Nicholas, are employed in the Civil Division of the Criminal District Attorney's Office of Dallas County, Texas and are responsible for representing Mr. Scarpello in this lawsuit as well as other cases in this Court: case no. 1:21-CV-00546-LY, LULAC v. Elfant; and case no. 5:21-CV-00649-JKP, VOTE.org v. Callanen); (2) the undersigned and co-counsel have been unable to discuss this case in detail with Mr. Scarpello; and (3) Plaintiff will not be prejudiced if the Court grants this motion.

6. This is obviously an important case, for all parties and others, as shown by Plaintiffs bringing in the acting Texas Secretary of State and the Texas Attorney General since Plaintiffs are challenging the constitutionality of portions of SB 1,

which was signed by the Governor of Texas just 23 days ago on September 7, 2021 in addition to seeking to establish a violation of the Voting Rights Act.

WHEREFORE, Defendant Michael Scarpello requests the Court to enter an order granting him an extension of time, up to and including October 25, 2021, to file his answer or other responsive pleading to Plaintiffs' Original Complaint, and further to grant him all other relief that is consistent with this motion.

Respectfully submitted,

JOHN CREUZOT
CRIMINAL DISTRICT ATTORNEY
DALLAS COUNTY, TEXAS

/ s / Ben L. Stool

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MICHAEL SCARPELLO

**DEFENDANT MICHAEL SCARPELLO'S UNOPPOSED MOTION TO EXTEND
DEADLINE TO FILE AN ANSWER OR OTHER RESPONSIVE PLEADING TO
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CERTIFICATE OF CONFERENCE

I hereby certify that on September 29, 2021, I conferred by telephone and email with counsel for Plaintiff, Kathryn E. Yukevich, regarding this this motion, and Ms. Yukevich indicated that Plaintiffs were not opposed to the motion.

/ s / Ben L. Stool
Assistant District Attorney

CERTIFICATE OF SERVICE

I certify that on September 29, 2021, this motion was electronically filed with the Clerk of Court for the U.S. District Court, Western District of Texas, using the Court's electronic case filing system. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have registered as Filing Users, which constitutes consent to electronic service of all documents as provided by the Court's rules and by Rule 5 of the Federal Rules of Civil Procedure.

/ s / Ben L. Stool
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